

REMARKS

This Amendment is filed in response to the Office Action mailed May 28, 2008. In this Amendment, claims 9 and 18 are amended and claims 10-12, 19, 20, 26, 29, 30 and 36-39 are unchanged. Following entry of this amendment, claims 9-12, 18-20, 26, 29, 30 and 36-39 shall be pending.

In the Office Action, claims 9-12, 18-20, 26, 29, 30, 36-37, and 39 have been rejected based on prior art grounds. For the reasons set forth below, these rejections are hereby traversed.

I. REJECTIONS UNDER 35 U.S.C. SECTION 102

Claims 9-12 are rejected under 35 U.S.C. Section 102(b) as being anticipated by U.S. Patent No. 6,330,481 to Van Wijk et al. ("*The Van Wijk Patent*"). For at least the reasons set forth below, it is submitted that these prior art rejections should be withdrawn and the pending claims allowed.

The Van Wijk Patent cannot be properly relied upon as anticipating the invention as recited in claim 9. For example, *The Van Wijk Patent* fails to at least show a surgical pledget fastened to a myocardium of a heart by a suture at a first end of said pledget and a second end of said pledget and said heartwire being disposed between said pledget and an epicardium of said heart. *The Van Wijk Patent* describes a pacing wire incorporated with an adhesive pad. The adhesive pad adheres to the epicardium of the heart to maintain the position of the pacing wire. Adhesives, however, do not reliably adhere to the moist surfaces within the body. Further, the adhesive pad adheres to the epicardium or outer surface of the heart which can often be weak, diseased and easily damaged. In contrast, the present invention fastens a pledget to the myocardium of the heart which is typically stronger and healthier tissue and therefore can more reliably maintain the position of the pacing wire.

Additionally, the suture and pledget combination as recited in claim 9 allow the user to remove and reinsert the pacing wire while *The Van Wijik Patent*'s adhesive pads can only be removed once.

Thus for at least this reason, *The Van Wijik Patent* fails to anticipate claim 9. It is also submitted that *The Van Wijik Patent* does not render the invention obvious.

Turning to claims 10-12, these claims depend from claim 9 and thus for at least the above reasons are also novel and unobvious over the cited prior art. However, these claims further limit the claimed invention and thus are separately patentable over the cited prior art.

II. REJECTIONS UNDER 35 U.S.C. SECTION 103

Claims 18-20, 26, 29, 30, 36, 37, and 39 are rejected under 35 U.S.C. Section 102(b) as being obvious by U.S. Patent No. 6,330,481 to Van Wijik et al. ("*The Van Wijik Patent*") in view of U.S. Patent No. 6,231,514 to Lowe et al. ("*The Lowe Patent*"). For at least the reasons set forth below, it is submitted that these prior art rejections should be withdrawn and the pending claims allowed.

The Van Wijik Patent and *The Lowe Patent* cannot be properly relied upon as making obvious the invention as recited in claim 18. For example, *The Van Wijik Patent* fails to at least show a surgical pledget removably attached to said distal end of said wire and to a myocardium of a heart. *The Van Wijik Patent* describes a pacing wire incorporated with an adhesive pad. The adhesive pad adheres to the epicardium of the heart to maintain the position of the pacing wire. Adhesives, however, do not reliably adhere to the moist surfaces within the body. Further, the adhesive pad adheres to the epicardium or outer surface of the heart which can often be weak, diseased and easily damaged. In contrast, the present invention fastens a pledget to the myocardium of the heart which is typically stronger and healthier tissue and therefore can more reliably maintain the position of the pacing wire. Additionally, the pledget combination as

recited in claim 18 allows the user to remove and reinsert the pacing wire while *The Van Wijik Patent's* adhesive pads can only be removed once.

The Lowe Patent apparently discloses a chest tube coupled with a pacing wire. The Undersigned can find no additional disclose of a surgical pledget removably attached to said distal end of said wire and to a myocardium of a heart as recited in claim 18.

Thus for at least this reason, *The Van Wijik Patent* in combination with *The Lowe Patent* fails to make obvious claim 18.

Turning to claims 19-20, 26, 29 and 30, these claims depend from claim 18 and thus for at least the above reasons are also novel and unobvious over the cited prior art. However, these claims further limit the claimed invention and thus are separately patentable over the cited prior art.

The Van Wijik Patent and *The Lowe Patent* cannot be properly relied upon as making obvious the invention as recited in claim 36. For example, neither *The Van Wijik Patent* nor *The Lowe Patent* disclose a heartwire disposed in a groove formed in a peripheral wall of the chest tube. While Figure 17 of *The Lowe Patent* may show pacing wires 151A and 151B in connection with a chest tube, the Undersigned can find no disclosure of such a groove.

Thus for at least this reason, *The Van Wijik Patent* in combination with *The Lowe Patent* fails to make obvious claim 36.

Turning to claims 37 and 39, these claims depend from claim 18 and thus for at least the above reasons are also novel and unobvious over the cited prior art. However, these claims further limit the claimed invention and thus are separately patentable over the cited prior art.

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Serial No.: 10/534,309
Art Unit: 3766

PATENT
Atty Docket: 225799-500

III. ALLOWABLE SUBJECT MATTER

The indication of allowable subject matter is acknowledged and the Examiner is thanked for this allowance.

CONCLUSION

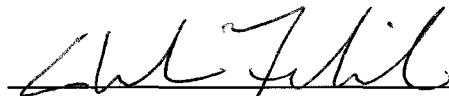
In view of the foregoing, it is submitted that pending claims 9-12, 18-20, 26, 29, 30 and 36-39 are now in condition for allowance. Hence, an indication of allowability is hereby requested.

If for any reason direct communication with Applicants' attorney would serve to advance prosecution of this case to finality, the Examiner is cordially urged to call the undersigned attorney at the below listed telephone number.

The Commissioner is authorized to charge any additional fee which may be required in connection with this Amendment to deposit account No. 50-2809.

Respectfully submitted,

Dated: November 26, 2008



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